

Fwd: Update on Fintrac regs and other issues.

From: "Church, Leslie" <leslie.church@fin.gc.ca>
To: "Meredith, Tyler" <tyler.meredith@fin.gc.ca>, "Hurl, David" <david.hurl@fin.gc.ca>, Farees Nathoo [Personal Info.], Alex Lawrence [Personal Info.]
Date: Tue, 22 Feb 2022 13:47:43 +0000

FYI....

Sent from my iPhone

Begin forwarded message:

From: "Sabia, Michael" <michael.sabia@fin.gc.ca>
Date: February 22, 2022 at 7:53:52 AM EST
To: Minister of Finance Chrystia Freeland [Personal Info.]
Cc: "Church, Leslie" <Leslie.Church@fin.gc.ca>
Subject: Fwd: Update on Fintrac regs and other issues.

Minister

You will see below our answers to the questions raised during our conversation yesterday afternoon with Leslie.

I think this is pretty straightforward. And the answer on Fintrac is like Goldilocks: just right. With the regs we can deal with most of the issues associated with expanding the scope of their surveillance. And yet we still need some legislative action to free up the exchange of information. Hopefully the latter deals with Leslie's concern.

If you need more, let me know.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Brazeau, Julien" <julien.brazeau@fin.gc.ca>
Date: February 21, 2022 at 10:46:06 PM EST
To: "Sabia, Michael" <michael.sabia@fin.gc.ca>, "Jacques, Isabelle" <isabelle.jacques@fin.gc.ca>
Cc: "Williams, Tushara" <Tushara.Williams@fin.gc.ca>
Subject: RE: Update on Fintrac regs and other issues.

Michael,

Following up on the questions you raised with Isabelle earlier this evening, please find below suggested responses:

1. Process for unfreezing accounts: settled now by the RCMP instruction to the banks. Can we get confirmation that that is underway? And possible timelines from the CBA?

A: RCPM has confirmed that they provided the banks with a list of 57 individuals/entities representing a total of 240 financial accounts that are no longer involved in the blockades. The banks confirmed that they are actively unfreezing the accounts of these individuals/entities this evening. With the exception of accounts frozen arising from provincial superior court orders, we expect that most of the accounts frozen under the current Emergency Order should be unfrozen by tomorrow.

2. Immunity for the FI's once the order is no longer in place. You addressed during it call. Please confirm by email that this immunity survives the lapsing of the EA.

A: Yes. Financial Service Providers (FSP) that complied with the Order would continue to benefit from the immunity in the Order based on the Interpretation Act. There may be situations where FSP would lose the immunity if the damages were caused by the FSP's own action or inaction beyond purely complying with the order

3. The Fintrac regs: can we expand the scope of their surveillance by regs? What is the state of the regs? When will they be ready? And please confirm that we may need some legislation to give Fintrac the ability to share information with the RCMP and perhaps for other things as well.

A: Short answer is yes. Whereas the Emergency Order applied only to those crowdfunding platforms and payment services providers that controlled funds related to the illegal blockades, the regulations will apply broadly to crowdfunding platforms and payment service providers irrespective of whether they control funds related to the activities that gave rise to the Emergency Order.

Networks on which payments are processed (for example, VISA, Interac and MasterCard) would not be captured owing to the fact that it is the information from payment service providers that use these networks to remit and transmit funds as well as transaction information from the financial institutions that issue these cards (e.g., CIBC in the case of a CIBC Aventura VISA) that yield financial intelligence. Under the proposed regulations, payment service providers that use these networks to process payments would be included. Card issuers are already regulated entities under the PCMLTFA.

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On the issue of whether FINTRAC will have the ability to continue sharing information with the RCMP in regards to the activities giving rise to the Emergency Order, the short answer is no.

Requiring entities to disclose transactions where they suspect the individuals are involved in illegal blockades and empowering FINTRAC to share that information with law enforcement agencies would require legislative amendments (including the potential criminalization of the illegal blockade activities in the PCMLTFA or the Criminal Code) and would represent a significant broadening of FINTRAC's powers and mandate.

In accordance with the Proceeds of Crime (Money Laundering) and Terrorist Finance Act, information that FINTRAC obtains through disclosures from reporting entities (disclosure of suspicious or large transactions) is shared with law enforcement agencies when there is evidence of money-laundering or terrorist financing. The activities that gave rise to the Emergency Order would not in and of themselves give rise to disclosure between FINTRAC

and the RCMP unless money laundering or terrorist financing was at play.

Existing intelligence and law enforcement agencies (CSIS, RCMP) would be at least equally if not better placed to collect intelligence related to activities that are not primarily economic/financial in nature.

Happy to discuss if you have any questions.

Regards,
Julien

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-----Original Message-----

From: Sabia, Michael <michael.sabia@fin.gc.ca>
Sent: Monday, February 21, 2022 10:28 PM
To: Jacques, Isabelle <isabelle.jacques@fin.gc.ca>
Cc: Brazeau, Julien <julien.brazeau@fin.gc.ca>; Williams, Tushara
<Tushara.Williams@fin.gc.ca>
Subject: Update on Fintrac regs and other issues.

Isabelle

This note refers to our conversation earlier in the late afternoon.

I raised three issues:

1. Process for unfreezing accounts: settled now by the RCMP instruction to the banks. Can we get confirmation that that is underway? And possible timelines from the CBA?
2. Immunity for the FI's once the order is no longer in place. You addressed during it call. Please confirm by email that this immunity survives the lapsing of the EA.
3. The Fintrac regs: can we expand the scope of their surveillance by regs? What is the state of the regs? When will they be ready? And please confirm that we may need some legislation to give Fintrac the ability to share information with the RCMP and perhaps for other things as well.

Can I get a short email from you by 9:30 am? Nothing long or highly detailed.

Thanks.

Michael.

Sent from my iPhone